

THE HONORABLE TANA LIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WILLIAM MCNAE and RONDA MCNAE,

Plaintiffs,

v.

ARAG INSURANCE COMPANY,

Defendant.

Case No. 2:24-cv-00211-TL

DECLARATION OF MICHAEL
MULLALY IN SUPPORT OF ARAG
INSURANCE COMPANY'S MOTION
FOR PARTIAL SUMMARY
JUDGMENT (ERISA PREEMPTION)

I, Michael Mullaly, under penalty of perjury under the laws of the United States of America, declare that the following statements are true and correct:

1. I am counsel for ARAG Insurance Company ("ARAG"), admitted pro hac vice in this matter. I am of legal age, am competent to testify, and have personal knowledge of the matters herein.

2. Attached hereto as **Exhibit 1** is a true and correct copy of a personnel record for William McNae as produced by Microsoft Corporation ("Microsoft") as "MS SUB CONFIDENTIAL 000009" in response to a subpoena issued by Plaintiffs' former counsel and as reproduced to Plaintiffs in this litigation as ARAG010721. Exhibit 1 contains redactions pursuant to LR 5(g)(1)(B) to minimize filing under seal.

1 3. Attached hereto as **Exhibit 2** is a true and correct copy of a personnel record for
2 William McNae as produced by Microsoft as “MS SUB CONFIDENTIAL 000023” through
3 “000025” in response to a subpoena issued by Plaintiffs’ former counsel and as reproduced to
4 Plaintiffs in this litigation as ARAG010735-ARAG010737. Exhibit 2 contains redactions
5 pursuant to LR 5(g)(1)(B) to minimize filing under seal.

6 4. Attached hereto as **Exhibit 3** is a true and correct copy of a declaration certifying
7 that Exhibit 1 and Exhibit 2 are business records of Microsoft.

8 5. Attached hereto as **Exhibit 4** is a true and correct excerpt from the 2022
9 Summary Plan Description for the Microsoft Corporation Welfare Plan as produced by
10 Microsoft as “MS SUB CONFIDENTIAL 000005” through “000479” in response to a
11 subpoena issued by ARAG’s counsel and as reproduced to Plaintiffs in this litigation as
12 ARAG010880-ARAG011354. At the request of Microsoft following a meet and confer
13 pursuant to LR 5(g), the excerpt was prepared by removing Sections III, IV, V, VI, VII, VIII,
14 IX, X, and portions of XIV (health plan terms, coordination of benefits terms, and long-term
15 disability (LTD) terms), which are not germane to these proceedings, except for the title page
16 of each of these sections.

17 6. Attached hereto as **Exhibit 5** is a true and correct copy of a declaration certifying
18 that Exhibit 4 is a business record of Microsoft.

19 7. Attached hereto as **Exhibit 6** is a true and correct copy of the Microsoft
20 Corporation Welfare Plan As Amended And Restated Effective January 1, 2016, together with
21 a series of amendments thereto, as produced by Microsoft as “SUPPLEMENTAL MS SUB
22 CONFIDENTIAL 000022” through “000085” in response to a subpoena issued by ARAG’s
23 counsel and as reproduced to Plaintiffs in this litigation as ARAG011377-ARAG011440.
24

1 8. Attached hereto as **Exhibit 7** is a true and correct copy of Microsoft’s filed Form
2 5500 for 2022 as produced by Microsoft as “SECOND SUPPLEMENTAL MS SUB
3 CONFIDENTIAL 000001” through “000027” in response to a subpoena issued by ARAG’s
4 counsel and as reproduced to Plaintiffs in this litigation as ARAG011933-ARAG011959.

5 9. Attached hereto as **Exhibit 8** is a true and correct copy of a declaration certifying
6 that Exhibit 6 and Exhibit 7 are business records of Microsoft.

7 10. On July 14, 2022, Michael J. Fitzgerald (“Mr. Fitzgerald”) filed a civil action,
8 No. 1:22-cv-22171, in the United States District Court for the Southern District of Florida
9 (“Underlying Federal Action”).

10 11. Attached hereto as **Exhibit 9** is a true and correct copy of the Complaint in the
11 Underlying Federal Action (S.D. Fla. ECF 1), filed July 14, 2022.

12 12. Attached hereto as **Exhibit 10** is a true and correct copy of Mr. Fitzgerald’s
13 Motion for Leave to Amend Complaint and Motion to Join Additional Parties in the Underlying
14 Federal Action (S.D. Fla. ECF 24), filed December 16, 2022.

15 13. Attached hereto as **Exhibit 11** is a true and correct copy of Order on Motion for
16 Leave to Amend in the Underlying Federal Action (S.D. Fla. ECF 25), filed December 29,
17 2022.

18 14. Attached hereto as **Exhibit 12** is a true and correct copy of Mr. Fitzgerald’s
19 Amended Complaint in the Underlying Federal Action (S.D. Fla. ECF 27), filed December 30,
20 2022.

21 15. Attached hereto as **Exhibit 13** is a true and correct copy of Amended Order on
22 Motion to Dismiss Amended Complaint in the Underlying Federal Action (S.D. Fla. ECF 100),
23 filed October 24, 2023.

16. On November 2, 2023, Mr. Fitzgerald filed a civil action against William McNae, No. 2023-025855-CA-01, in the Circuit Court of the Eleventh Judicial Circuit In and For Miami-Dade County, Florida (“Underlying State Action”).

17. Attached hereto as **Exhibit 14** is a true and correct copy of Mr. Fitzgerald's Complaint in the Underlying State Action, filed November 2, 2023.

18. Attached hereto as **Exhibit 15** is a true and correct copy of “2022 Instructions for Form 5500,” an Internal Revenue Service publication downloaded on March 5, 2025 from <https://www.dol.gov/sites/dolgov/files/EBSA/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500/form-5500-instructions-2022.pdf>.

19. Attached hereto as **Exhibit 16** is a true and correct copy of “Annual Report 2022,” a Microsoft publication for investors downloaded on March 6, 2025 from <https://www.microsoft.com/investor/reports/ar22/download-center/>.

20. Attached hereto as **Exhibit 17** is a true and correct copy of an email chain among Ronda McNae, William McNae, and myself beginning on February 20, 2025 and ending on March 3, 2025. As of this filing, I have received no response to the March 3, 2025 communication.

Dated this 6th day of March 2025, at Columbus, Ohio.

/s/ Michael T. Mullaly
Michael T. Mullaly

CERTIFICATE OF SERVICE

Pursuant to the laws of the United States, the undersigned certifies under penalty of perjury that on the 6th day of March, 2025, the document attached hereto was served upon the below in the manner indicated:

Pro Se Plaintiff

William McNae
504 11th Place
Kirkland, WA 98033
prose.wmcnae@gmail.com

- ☐ Via CM/ECF
- ☒ Via electronic mail
- ☐ Via U.S. Mail, postage prepaid
- ☐ Via Facsimile
- ☐ Via Courier
- ☒ Via Overnight delivery

Pro Se Plaintiff

Ronda McNae
504 11th Place
Kirkland, WA 98033
prose.rmcnae@gmail.com

- ☒ Via CM/ECF
- ☒ Via electronic mail
- ☐ Via U.S. Mail, postage prepaid
- ☐ Via Facsimile
- ☐ Via Courier
- ☐ Via Overnight delivery

DATED this 6th day of March, 2025, in Columbus, OH.

By s/Michael T. Mullaly

Michael T. Mullaly